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# LEGISLATIVE YUAN AFTER

The constitution of the Republic of China became effective 25 December 1947. The first National Assembly will meet on 29 March this year. The various agencies organized in turn under the constitution will henceforth proceed along constitutional lines following the broad highway of democracy.

Each stage of China's history in the last 100 years is really a stage in a movement towards constitutional democracy. China's Kuomintang led like people of the nation to overthrow the despotic Manchu regime, to sweep our the ruthless warlords, to defeat the Japanese imperialists, and now after several decades of revolutionary struggle, has finally opened a level road for Chine's constitutional democracy. Only at the end of 1946 was this democratic constitution framed by the National Assembly, the crystallization of China's movement towards constitutional democracy over the last 100 years. How many hardship a and abbuacles has this constitution passed through, how much bloodshed of former patriots, how much hard work and struggle on the part of all the people, before it could be born! How precious it is! Since the people with all their might have brought the constitution to birth, from now on they must with all their strength safeguard its smooth and efficient functioning.

The constitution is too basic law of the nation. All administration of government is patterned after the constitution. It must function smoothly and efficiently; only thus can the nation be democratic, united and prosperous The activity of every national organ is closely connected with the afficient functioning of the constitution. Now as the constitution is being first put into effect, I want to describe briefly the position and carecity of the Legislative Year under the constitution.

## Direct Organ of the People's Will

The Legislative Yuan is composed of legislators chosen directly by the

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people. They act for the people in exercising their lawwaking authority (art 62 of the constitution). So the Legislative Yuan directly represents the people's will.

In the new constitution the Legislative Yuan, National Assembly, and Control Yuan are all organs of the people's will, but the Control Yuan members are elected by local assemblies (Art 91 of the constitution) so it is an indirect organ of the people's will. Although the delegates of the National Assembly are elected directly by the people and may institute the processes of initiative and referendum with respect to ordinary legislation when half the halen and municipalities of the whole country are prepared to exercise these two powers (Art 26 and 27 of the constitution), nevertheless, it meets (only) once in 6 years; consequently, in the future, the responsibility for the work of lammaking will rest most heavily on the Legislative Yuan is really the nation's highest lawmaking body.

During the period of tutelage, the Legislative Yuan was an organ of the government, that is, an administrative agency. While it passed laws, it was not the highest lawmeking body. That was formerly the Central Political conference, then the Supreme Defense Council, and now is the State Council. Under the constitution, the Legislative Yuan is an organ of the people's all that is, a political agency, with the highest authority in the making of laws. This is the basic difference between the present A.s., pre-constitution Legislative Yuan and that under the constitution.

#### Relation Between the Legislative and the Executive

The form of government laid down in the new constitution is based on the San Min Chu I. It is the five-power system with an admixture of the British and American systems.

Article 55 of the new constitution provides: The heed of the Executive Than is nominated by the President and is appointed on approval of the Legiclative Yuan.

Article 57 provides: "The Executive Yuan, according to the following provisions, is responsible to the Legislative Yuan: (1) The Executive Yuan has the duty of proposing administration objectives and reporting on performance. When the Legislative Yuan is in eassion, its members have the right to interrogate the head of the Executive Yuan and the heads of any if its ministries. (2) When the Legislativo Yuan disapproves of important policies of the Executive Yuan, it may request the Executive Yuan to change them. The Executive Yuan, with regard to the Legislative Yuan's resolutions, may, with the President's approval, ask the Legislative Yuan to reconsider; if on reconsideration the original motion is upheld by two-thirds of those attending the Legislative Yuan, the head of the Executive Yuan shall accept such decision or resign. (3) When the Executive Yuan claims that resolutions passed by the Legislative Yuan as to laws, budget, or treaties, are impossible to enferce, it may, with the President's approval, and withis 10 days of their reaching in Executive Yuan, request reconsideration by the Legislative Yuan. If on room-sideration the original motion is upheld by two-thirds of the members attending the Legislative Yuan, the head of the Executive Yuan shall accept said decision or resign."

This system of responsibility owed by the Executive Yuam to the Legistality Yuan is really a very important feature of the constitution. When the constitution was being drafted, this feature evoked lively debate. Many delegates claimed that this savered of cabinet rule and ran counter to the spirit of Dr Sun's system of independence of the five powers. But really this submer in our constitution is a novel plan and not the cabinet system of Britain and

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France; Article 75 provides that members of the Legislative Yuan may not concurrently hold any other effice, and furthermore, while members of the Legislative Yuan have the right to intercogate the head of the Executive Yuan and the heads of any of its ministries, they cannot pass a vote of "no confidence" and cause the cabinet to fall. This is quite different from the cabinet system in other countries. And the provisions that resolutions passed after reconsideration by the Legislative Yuan must be accepted by the Executive Yuan is the same as in nations that have the presidential system. Dr Sun acrocated the five powers being independent, but he did not advocate their standing isolated. Whether in a three-power or a five-power constitution, the powers will certainly be interrelated.

Under the provisions of the new constitution, the officials appointed by the President must first be approved or appointed by the Examination Than and must be subject to supervision and impeachment by the Control Yuan. We cannot say because of this that the Examination and Control Yuans obstruct the President's executive powers.

So the provisions in the new constitution for a central authority do not run counter to the scheme of the independence of the five powers, furthermore it is not a pure cabinet system but adopts alike the merits of the British and French cabinet systems and of the American presidential system; Articles 55 and 57 merely provide that resolutions passed by the Legislative Than shall have an added guarantee of performance.

The Legislative Yman is an organ of the people's will; the Executive Yman is an agency of the government. The responsibility of the Executive Yman to the Legislative Yman is the responsibility of the government to the people. This scheme of responsibility enables our new constitution to manifest the fullest spirit of democracy.

### Progress of Legislation

Since the memberable of the Legislative Than is large, and most resolutions will be of a specialized character, in sessions of the Than it is often not easy to reach correct conclusions; so, different committees, corresponding to various departments of government have been set up. All bills introduced by various agencies into the Legislative Than according to the constitution must first be studied by the committee concerned, and afterwards reported on the floor for discussion (Art 8, organization Flan of the Legislative Than). Under the constitution each committee of the Legislative Than is really the actual focus of legislation; it may be called a concrete miniature of the Legislative Than. Each committee is composed of 39-69 members, no small number. In each committee there is a convening group of three or five persons (Art 5, organization) who can call the committee together and also can act as its core in order to facilitate its work. The committee, and conveners are percelled out among the members of the Legislative Than, but to avoid to much scattering of strength, any one member may take part in only three committees, and be the convener of not nown than one.

Moreover, it is a general custom among the nations to have specialists responsible for the study and drafting of legislation. In the organization plan of the Legislative Yuan it is provided that one to three specialists be included.

In the revised organization plan of the Legislative Man, published in 1936, only five compittees are provided for, as against 17 in that of 23 December of the same year. The making of laws will be very complicated. If there are especially important bills, other committees or those of a special

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type may be created, (Art 3, Organization Flan). All bills concerning laws, budget, martial law, amnesty, declaration of war, friendly relations, treaties, and other weighty national matters, must be decided by the Legislative Yuan. Each resolution must have three readings and be approved before it becomes law. A member of the Legislative Yuan may not make a motion opposing a resolution passed while he himself was absent from a Yuan session or committee session, (Art 13, organization plan). This is to guarantee orderly progress of resolutions, and also to guard against schemes of some of the legislation by staying away. The December revision of the organization changed the required number for a quorum from one-third to one-fifth of the total number of Legislative Yuan members. As to Legislative Yuan members not being responsible outside the Yuan for their discussions and votes inside, this is a custom which it is needless to speak about again.

## Enlargement and Strongthening of the Organization

The present Legislative Yuan consists of 149 persons; under the constitution it will number 773, more than five times as many.

To keep pace with the growth of legislation under the constitution, the internal organization of the Legislative Tuan must be materially enlarged and strengthened. The most important mechanism in the Tuan for helping legislation is the secretariat and the drafting office. The secretariat has seven sections of over 100 employes. The drafting office has five sections and some 40 employes.

Again, a law wing organization must have complete library equipment for research and reference by the legislators. The US Library of Congress, the largest library in the world, is a shining example. In the organization plan of the Legislative Fian it is provided that in the fifth section of the drafting office a chief may be appointed to be in charge of books and set up a library, showing the importance attached to this matter.

All bills before and after approval, must be printed quickly and well, before they can be pushed. The revised organization plan of the Legislative Tun provides for printing work under the secretariat, with the possibility of a printing plant in the future. All this is lacking in the present Legislative Tun.

#### Conclusion

Our new constitution is filled with democratic and progressive qualities. It is a constitution well adapted to our present needs, as it recognized by Chinese and foreigners. The people of the entire nation, working together with one mind, will make this august legal instrument function smoothly and effectively, and bring our nation democracy, riches, and prosperity. Those who delight in rebellion, who seek to tear into enreds the constitution, to obstruct constitutional government, and to plunge the nation into chaos, will be rejected by our people.

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